

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 08-CR-131

ISDORE O. MBADIWE,

Defendant.

ORDER

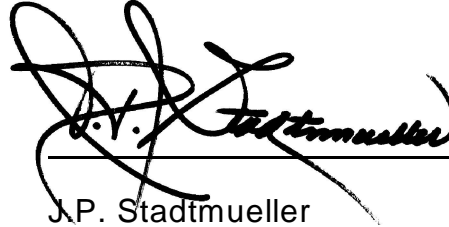
On July 1, 2009, Isdore Mbadiwe ("Mbadiwe") – who the court sentenced to a total term of seventy-five months imprisonment on July 31, 2008 – filed a Motion for Return of Property (Docket #9) pursuant to Fed. R. Crim. P. 41(g). The court now directs that the government respond to Mbadiwe's motion. The court notes that the issue of whether the government now possesses, or ever did possess, the property at issue is a factual question that must be resolved based on evidence received by the court. *U.S. v. Stevens*, 500 F.3d 625, 628 (2007) (citations omitted). "[E]vidence can take the form of 'sworn affidavits or documents verifying the chain of custody'" of the property. *Stevens v. U.S.*, 530, F.3d 502, 504 (7th Cir. 2008) (quoting *U.S. v. Stevens*, 500 F.3d 625, 628 (2007)). However, "arguments . . . unsupported by documentary evidence, are *not* evidence." *U.S. v. Stevens*, 500 F.3d 625, 628 (2007).

Accordingly,

IT IS HEREBY ORDERED that the government respond to Mbadiwe's Motion for Return of Property (Docket #9) within thirty days of the filing of this order.

Dated at Milwaukee, Wisconsin, this 3rd day of November, 2009.

BY THE COURT:

A handwritten signature in black ink, appearing to read "J.P. Stadtmueller", is written over a horizontal line. The signature is stylized with large, sweeping loops.

J.P. Stadtmueller
U.S. District Judge